

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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|                           |   |                             |
|---------------------------|---|-----------------------------|
| UNITED STATES OF AMERICA, | ) |                             |
|                           | ) |                             |
| Plaintiff,                | ) | 03:03-CR-00171-LRH (VPC)    |
| vs.                       | ) | ORDER RE LIMITED REMAND FOR |
|                           | ) | RESENTENCING                |
| DAMIAN PALOMINO-FUNES,    | ) |                             |
|                           | ) |                             |
| Defendant.                | ) |                             |
| _____                     | ) |                             |

This action has been remanded by the Ninth Circuit Court of Appeals for the limited purpose of determining whether the sentence originally imposed would have differed materially had the court been aware that the United States Sentencing Guidelines were advisory. Upon review of the Presentence Investigation and Report and related sentencing pleadings, the court is not aware of any grounds for the sentence originally imposed to have been any different under advisory guidelines.

To enable the court to consider the matter on remand, a telephonic status conference is hereby set for Thursday, January 5, 2006, at 11:15 a.m. Counsel for the Defendant shall forthwith consult with the Defendant and with counsel for Plaintiff United States, and shall be prepared at the status conference to advise the court of any issues on which the Defendant seeks further review of the original sentence imposed, in the event the court determines to schedule a hearing to consider whether to impose a different sentence.

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1 If the Defendant elects to waive further review of the original sentence, a written waiver  
2 bearing the signature of the Defendant and the Defendant's counsel shall be filed with the court and  
3 the status conference may be vacated.

4 DATED this 22<sup>nd</sup> day of December, 2005.

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8 LARRY R. HICKS  
UNITED STATES DISTRICT JUDGE  
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